

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission
On Its Own Motion

Consideration of the federal standard
on smart grid investments for electric
utilities in Section 1307(a) of the
Energy Independence and Security
Act of 2007

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08-0675

ORDER

By the Commission:

On December 19, 2007, the Energy Independence and Security Act of 2007 ("EISA 2007") (P.L. 110-140) was signed into law. Certain provisions of EISA 2007 amend the Public Utility Regulatory Policies Act of 1978 ("PURPA") to mandate certain considerations by state regulatory agencies. Section 1307(a) of EISA 2007 amends Section 111(d) of PURPA (16 U.S.C. 2621(d)) by adding the following language:

(18) CONSIDERATION OF SMART GRID INVESTMENTS.—

(A) IN GENERAL.—Each State shall consider requiring that, prior to undertaking investments in non-advanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including—

- (i) total costs;
- (ii) cost-effectiveness;
- (iii) improved reliability;
- (iv) security;
- (v) system performance; and
- (vi) societal benefit.

(B) RATE RECOVERY.—Each State shall consider authorizing each electric utility of the State to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system.

(C) OBSOLETE EQUIPMENT.—Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

In a Staff Report dated November 19, 2008, the Staff of the Energy Division indicates that the Commission's consideration of the electric standard on smart grid investments must be completed by December 19, 2009. Title I of PURPA applies to electric utilities that have annual retail sales exceeding 500 million kWh. According to the Staff Report, there are five electric utilities in Illinois that annually exceed that threshold amount of retail sales. The five electric utilities are Central Illinois Light Company (AmerenCILCO), Central Illinois Public Service Company (AmerenCIPS), Illinois Power Company (AmerenIP), Commonwealth Edison Company, and MidAmerican Energy Company

Based upon the foregoing, and upon the recommendation in a Staff Report dated November 19, 2008, the Commission determines that it is now appropriate to begin the investigation contemplated by Section 1307(a) of EISA 2007.

The Commission, being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has jurisdiction over the subject matter of this proceeding;
- (2) it is appropriate to take administrative notice of the amendments to PURPA contained in P.L. 110-140;
- (3) the Staff Report dated November 19, 2008 should be made part of the record in this proceeding;
- (4) the statements of fact and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;
- (5) it is appropriate to issue public notice and institute a rulemaking proceeding to consider and make a determination concerning whether or not this Commission will adopt or decline to adopt the standard on smart grid investments for electric utilities set forth in Section 111(d)(18) of PURPA (16 U.S.C. 2621(d)(18)), as created by EISA 2007 for each electric utility whose retail sales of electricity exceed the amount specified in PURPA;
- (6) all electric utilities whose retail sales of electricity exceed the amount specified in PURPA and all other electric utilities for which the Commission has ratemaking authority should be made parties to this proceeding;
- (7) a determination concerning whether or not this Commission will adopt the standard set forth in Section 111(d)(18) of PURPA (16 U.S.C. 2621(d)(18)) for each electric utility whose retail sales of electricity exceed the amount specified in PURPA should be rendered through the issuance

of an interim or final order in this rulemaking proceeding no later than December 19, 2009.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that a rulemaking proceeding is instituted to consider, and make a determination concerning, whether or not this Commission will adopt the standard set forth in Section 111(d)(18) of PURPA (16 U.S.C. 2621(d)(18)) for each electric utility whose retail sales of electricity exceed the amount specified in PURPA.

IT IS FURTHER ORDERED that a determination concerning whether or not this Commission will adopt the standard established under Section 111(d)(18) of PURPA (16 U.S.C. 2621(d)(18)) shall be made through the issuance of an interim or final order no later than December 19, 2009.

IT IS FURTHER ORDERED that the Staff Report dated November 19, 2008 is made a part of the record of this proceeding.

IT IS FURTHER ORDERED that this Order is not final; it is not subject to the Administrative Review Law.

By Order of the Commission this 17th day of December, 2008.

(SIGNED) CHARLES E. BOX

Chairman